



## 2009 SENATE BILL 661

1     **AN ACT** *to amend* 30.298 (3); and *to create* 30.2065 and 227.01 (13) (rt) of the  
2             statutes; **relating to:** general permits for certain wetland restoration activities  
3             and providing a penalty.

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*Analysis by the Legislative Reference Bureau*

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

4             **SECTION 1.** 30.2065 of the statutes is created to read:  
5             **30.2065 General permit for certain wetland restoration activities. (1)**  
6             **DEFINITION.** In this section, “activity” means a wetland restoration activity sponsored  
7             by a federal agency.  
8             **(2) ISSUANCE; VALIDITY.** (a) Upon compliance with the requirements under subs.  
9             (3) and (4), the department may issue a general permit to a person wishing to proceed  
10            with an activity. A permit issued under this subsection is in lieu of any permit or

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1 approval that would otherwise be required for that activity under this chapter or s.  
2 31.02, 31.12, 31.33, 281.15, or 281.36.

3 (b) A general permit issued under this subsection is valid for a period of 5 years  
4 except that an activity that the department determines is authorized by a general  
5 permit remains authorized under the permit until the activity is completed. The  
6 department may renew or modify a general permit issued under this subsection.

7 (c) To ensure that the cumulative adverse environmental impact of the  
8 activities authorized by a general permit is insignificant and that the issuance of the  
9 general permit will not injure public rights or interests, cause environmental  
10 pollution, as defined in s. 299.01 (4), or result in material injury to the rights of any  
11 riparian owner, the department may impose any of the following conditions on the  
12 permit:

13 1. Construction and design requirements that are consistent with the purpose  
14 of the activity authorized under the permit.

15 2. Location requirements that ensure that the activity will not materially  
16 interfere with navigation or have an adverse impact on the riparian property rights  
17 of adjacent riparian owners.

18 3. Restrictions to protect areas of special natural resource interest.

19 **(3) PUBLIC NOTICE.** (a) The department shall circulate to interested and  
20 potentially interested members of the public notices of its intention to issue a general  
21 permit. Procedures for the circulation of public notices shall include at least the  
22 following:

23 1. Publication of the notice as a class 1 notice under ch. 985.

24 2. Mailing of the notice to any person or group upon request.

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1 (b) The department shall provide a period of not less than 30 days following the  
2 date of the public notice during which time interested persons may submit their  
3 written views on the department's intention to issue a general permit under sub. (2).  
4 All written comments submitted during the period for comment shall be retained by  
5 the department and considered in the issuance of the general permit.

6 (c) Every notice issued by the department of the department's intention to issue  
7 a general permit under sub. (2) shall include a description of the activities proposed  
8 to be authorized under the general permit.

9 **(4) PUBLIC HEARING.** (a) 1. The department shall provide an opportunity for any  
10 affected state, the U.S. environmental protection agency, or any interested state or  
11 federal agency or person or group of persons to request a public hearing with respect  
12 to the department's intention to issue a general permit under sub. (2). Such request  
13 for a public hearing shall be filed with the department within 30 days after the  
14 circulation of the public notice under sub. (3) and shall indicate the interest of the  
15 party filing the request and the reasons why a hearing is warranted.

16 2. The department shall hold a public hearing upon a request under subd. 1.  
17 if the department determines that there is a significant public interest in holding  
18 such a hearing. Hearings held under this section are not contested cases under s.  
19 227.01 (3).

20 (b) Public notice of any hearing held under this section shall be circulated in  
21 accordance with the requirements of sub. (3).

22 **(5) PROCEDURES FOR CONDUCTING ACTIVITIES.** (a) A person wishing to proceed  
23 with an activity under the authority of a general permit issued under sub. (2) shall  
24 apply to the department, with written notification of the person's wish to proceed  
25 with the activity, not less than 15 days before commencing the activity. The federal

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1 agency sponsoring the activity may file the application on behalf of the person  
2 wishing to proceed with the activity, if the person authorizes the federal agency to  
3 do so. The notification shall provide information describing the activity in order to  
4 allow the department to determine whether the activity is authorized by the general  
5 permit and shall give the department consent to enter and inspect the site, subject  
6 to s. 30.291. The department may make a request for additional information one  
7 time during the 15-day period. If the department makes a request for additional  
8 information, the 15-day period is tolled from the date the request for additional  
9 information is received until the date on which the department receives the  
10 information.

11 (b) If within 15 days after a notification under par. (a) is submitted to the  
12 department the department does not require any additional information about the  
13 activity that is subject to the notification and does not inform the person wishing to  
14 proceed with the activity or the federal agency sponsoring the activity that an  
15 individual permit will be required, the activity will be considered to be authorized  
16 under the general permit and the activity may proceed without further notice,  
17 hearing, permit, or approval if the activity is carried out in compliance with all of the  
18 conditions of the general permit.

19 **(6) INDIVIDUAL PERMIT IN LIEU OF GENERAL PERMIT.** (a) The department may  
20 decide to require a person who has applied under sub. (5) for authority to proceed  
21 with an activity under a general permit to apply for and be issued an individual  
22 permit if any of the following applies:

23 1. The department determines that the proposed activity is not authorized  
24 under the general permit.

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1           2. The department has conducted an investigation and visited the site and has  
2           determined that conditions specific to the site require restrictions on the activity in  
3           order to prevent significant adverse impacts to the public rights and interest,  
4           environmental pollution, as defined in s. 299.01 (4), or material injury to the riparian  
5           rights of any riparian owner.

6           (b) A decision by the department to require an individual permit under this  
7           subsection shall be in writing.

8           **(7) COMPLETION OF ACTIVITIES.** Upon completion of an activity that the  
9           department has authorized under a general permit, the federal agency that  
10          sponsored the activity shall provide to the department a statement certifying that  
11          the activity is in compliance with all of the conditions of the general permit and a  
12          photograph of the activity.

13          **(8) FAILURE TO FOLLOW PROCEDURAL REQUIREMENTS.** Failure of the person  
14          authorized to proceed under the general permit, or the federal agency that sponsored  
15          the activity, to follow the procedural requirements of this section may result in  
16          forfeiture but may not, by itself, result in abatement of the activity.

17          **(9) REQUEST FOR INDIVIDUAL PERMIT.** A person wishing to proceed with an  
18          activity for which a general permit has been issued may request an individual permit  
19          under the applicable provisions of this chapter or ch. 31 in lieu of seeking  
20          authorization under the general permit.

21          **SECTION 2.** 30.298 (3) of the statutes is amended to read:

22          **30.298 (3)** Any person who violates a general permit under s. 30.206 or 30.2065  
23          shall forfeit not less than \$10 nor more than \$500 for the first offense and shall forfeit  
24          not less than \$50 nor more than \$500 upon conviction of the same offense a 2nd or  
25          subsequent time.

1       **SECTION 3.** 227.01 (13) (rt) of the statutes is created to read:

2            227.01 **(13)** (rt) Is a general permit issued under s. 30.2065.

**3 (END)**